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**Ontario Legislative Library
Legislative Research Service**

Note 8
December 1996, revised July 1998
ISSN 1206-1360



Canada-Wide Accord on Environmental Harmonization

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On January 29, 1998, the Canadian Council of Ministers of the Environment (CCME), with the exception of Quebec, gave final approval to the Canada-Wide Accord on Environmental Harmonization, 14 months after approving it in principle. The Accord comprises a framework with sub-agreements on specific issues such as environmental standards, assessment and inspections.¹

Background

Under the Canadian constitution, jurisdiction for environmental management is shared between the federal and provincial governments, implicitly rather than explicitly since the word "environment" is not used.

The dividing lines between their respective responsibilities are far from distinct. Although the constitution appears to set out some clear environmental areas of responsibility, such as provincial control over forestry and federal control over fisheries, the interrelationships among the various powers related to the environment have always left considerable scope for involvement by both levels of government. Complicating this situation further is the complex nature of ecosystems and environmental issues, which do not respect jurisdictional boundaries.²

Despite numerous examples of successful cooperation on environmental matters over the years, federal and provincial ministers felt these mechanisms were being developed without any guiding framework, often in response to events rather than in anticipation of them. Questions were raised as to whether the right issues were being addressed and if they were being dealt with consistently across the country. Ministers perceived significant areas of overlap and duplication, such as management of toxic chemicals and environmental impact assessment. Finally, reduced budgets and resources at both levels of government required environment departments to become more efficient and effective to maintain the existing level of protection across Canada and improve it where needed.

First Steps

In November 1993, environment ministers agreed that harmonization of environmental management would become their first priority, and in May 1994, they adopted a series of objectives that would govern upcoming discussions. A draft framework agreement and ten draft schedules (excluding environmental impact assessment) were made public for discussion in October 1995. During a

three-month discussion period and two multi-stakeholder meetings, comments were obtained from business and industry, environmental interest groups, aboriginal people, academics, experts and others. Major issues raised included:

- **Accountability** - the need for clear and effective mechanisms, and the concern that the draft agreement would create a "third level of government" that would erode public access to the legislative and regulatory process;
- **Transparency** - the need to provide for public involvement in the negotiations and implementation;
- **Parties to the Agreement** - concern that Quebec was not at the table, and the need to define an appropriate role for aboriginal people;
- **Federal role** - the need to provide for appropriate leadership and co-ordination;
- **Decision-making** - the need to define decision-making and dispute resolution mechanisms to avoid gridlock and lowest common denominator solutions; and
- **Capacity and resources** - concern that some provinces may not have the capacity to fulfill their commitments, and the need to ensure that any necessary resource transfers occur before management changes are implemented.³

The Accord

At their January 1998 meeting in St. Johns, Newfoundland, the CCME gave final approval to the Canada-Wide Accord on Environmental Harmonization, following some last-minute reservations on the part of the federal Minister.⁴ As the umbrella agreement, it is intended to be a comprehensive, multilateral framework that sets the direction for the harmonization initiative by laying out a vision, objectives and principles. As well, it will provide guidance for sub-agreements, whether multilateral, regional or bilateral. Key elements include:

- A **vision statement**;
- A **purpose statement**;
- A list of **objectives of harmonization**, including the enhancement of environmental protection, promotion of sustainable development and achievement of greater efficiency, effectiveness, accountability, predictability and clarity in environmental management in Canada;
- **Principles**, including **polluter pays**, **pollution prevention**, **precautionary approach**, **performance-based environmental measures**, **respect for legislative authorities of the federal parliament and provincial and territorial legislatures**, **openness and transparency in environmental decision-making**, **flexibility as required to reflect specific circumstances within a jurisdiction**, and **co-operation with aboriginal people and their structures of governance**;
- A section on **sub-agreements** which proposes guidance for determining roles and responsibilities of jurisdictions;
- Some general **administration** provisions; and
- A **work plan** which proposes priority areas for sub-agreements in the future.
- CCME, in consultation with the public, will review the Accord in five years to evaluate its effectiveness and determine its future.

Although the Accord would seem to have both practical and symbolic benefits, its signing has not been welcomed by some environmental interest groups. One critic termed it "a wholesale devolution, a handoff by the federal government to the provinces of environmental responsibilities."⁵ Another group declared that the signing "marks a new low point in what was already an abysmal period for Canada's environment."⁶

Regardless of the rhetoric surrounding the Accord, its success will likely depend entirely upon the willingness of the signing governments to make it work.

Footnotes

1 Detailed information about the Accord and its sub-agreements, along with an opportunity to comment on many aspects of the ongoing process are provided at the CCME's Internet site:

<http://www.mbnet.mb.ca/ccme/harmonization>

2 A full discussion of these issues is provided in a report titled *Background on the Harmonization Initiative*, at the CCME's Internet address: <http://www.mbnet.mb.ca/ccme/background.html>

3 *Ibid.*

4 "Nine provinces, Ottawa sign co-operation deal," *Environment Policy & Law*, (February 1998): 649, 656.

5 "Water, air quality deal signed with provinces," *Toronto Star*, 30 January 1998, p. A7.

6 A. Mitchell and M. Winfield, "The accord is a tragedy for Canada's environment," *Globe & Mail*, 2 February 1998, p. A15.